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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,330	08/04/2003	Harald Kloeckner	FA1144USNA	6775

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WILMINGTON, DE 19805

EXAMINER

TSOY, ELENA

ART UNIT PAPER NUMBER

1762

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,330

Applicant(s)

KLOECKNER ET AL.

Examiner

Elena Tsoy

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/4/2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1762

Abstract

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words (15 lines). It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8, 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellmann et al (US 5,412,000) in view of Ozawa et al (US 5,492,963).

Hellmann et al disclose a method for painting motor vehicles and motor vehicle parts having plastics surfaces plastic substrates (See column 3, lines 8-16), comprising applying a pigmented (See column 1, line 65) coating composition directly to the plastic substrate (See column 2, line 68), and curing the pigmented paint layer thus obtained (See column 3, lines 17-25), wherein the coating composition comprises a) from about 1 to 5% by weight of one or more ethylene/vinyl acetate copolymers, b) from about 0.5 to 5% by weight of one or more chlorinated polyolefins with chlorine content of 10-25 wt % such as *commercially* available products (See column 2, lines 35-38), c) from about 0.01 to 5% by weight of one or more epoxy resins (claimed

Art Unit: 1762

conventional binder), d) from about 85 to 98.49% by weight of one or more organic solvents, and optionally paint auxiliaries, pigments and/or fillers (See column 2, lines 9-20).

Hellmann et al fail to teach that the coating composition further comprises chlorinated rubber (Claim 1) in an amount of 0.5-10 wt % (Claim 6).

Ozawa et al teach that chlorinated natural and synthetic rubbers have been found to provide excellent film-forming properties, adhesional affinity for vulcanizing elastomers, and environmental resistance (See column 1, lines 18-29). Chlorinated polyolefins having significantly high chlorine contents of 60-75 wt % (See column 2, lines 38-39) provide performance *equivalent* to or greater than the performance provided by the **traditional chlorinated rubber** materials utilized in adhesive compositions to provide effective adhesional affinity for vulcanizing rubber, and environmental resistance (See column 2, lines 3-16). In other words, Ozawa et al teach that chlorinated rubber has adhesive properties to plastics that are superior to that of *commercial* chlorinated polyolefins having chlorine contents of much less than 60 wt %.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted a portion of *commercial* chlorinated polyolefins of Hellmann et al with the expectation of providing the desired improved adhesive properties since Ozawa et al teach that chlorinated rubber has adhesive properties to plastics that are superior to that of *commercial* chlorinated polyolefins having chlorine contents of much less than 60 wt %.

It is held that it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose....

Art Unit: 1762

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a combination of *commercial* chlorinated polyolefins of Hellmann et al with chlorinated natural and synthetic rubbers since each of them are used for the same purpose.

As to claims 2, 3, Hellmann et al teach that after drying/curing a primer coating layer, a typical finishing paint (claimed clear top coat) may then be applied to the dried/cured layer (See column 3, lines 26-28). Obviously, a coating may not be overcoated with a finish layer depending on intended use of a final product.

It is held that concentration limitations are obvious absent a showing of criticality. *Akzo v. E.I. du Pont de Nemours* 1 USPQ 2d 1704 (Fed. Cir. 1987):

It is well known in the art that properties of a coating composition depend on concentration of components. In other words, concentration limitations are result-effective parameters in a coating process.

As to concentration limitations, it is held that it is not inventive to discover the optimum or workable ranges of result-effective variables by routine experimentation. *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977). See also *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have determined the optimum values of the relevant concentration parameters (including those of claimed invention) in Hellmann et al in view of Ozawa et al through routine experimentation in the absence of showing of criticality.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hellmann et al in view of Ozawa et al, further in view of Heaps et al (US 4,517,327) and Corcoran et al (US 5,279,862).

Art Unit: 1762

Hellmann et al in view of Ozawa et al are applied here for the same reasons as above.

Hellmann et al in view of Ozawa et al fail to teach that the colour-imparting coating composition is a water-based coating composition.

Heaps et al teach that because of greater environmental concerns today, efforts are being made to convert from solvent-based coatings to water-based coatings (See column 1, lines 15-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have converted solvent based coating composition to water-based coating composition in Hellmann et al in view of Ozawa et al since Heaps et al teach that because of greater environmental concerns today, efforts are being made to convert from solvent-based coatings to water-based coatings.

Corcoran et al teach that in applying the clear coating composition to a vehicle such as an automobile or a truck for a repair or repainting, the basecoat which may be either a solvent based composition or a waterborne composition is first applied and then dried to at least remove solvent or water before the clear coat is applied (See column 4, lines 48-50).

One of ordinary skill in the art at would have reasonable expectation of success of using water based coating composition in Hellmann et al in view of Ozawa et al instead of solvent based coating composition since Corcoran et al teach that in applying the clear coating composition to a vehicle such as an automobile or a truck for a repair or repainting, the basecoat which may be either a solvent based composition or a waterborne composition is first applied and then dried to at least remove solvent or water before the clear coat is applied.

Art Unit: 1762

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (571) 272-1429. The examiner can normally be reached on Mo-Thur. 9:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-141523. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy
Primary Examiner
Art Unit 1762

ELENA TSOY
PRIMARY EXAMINER
ETsoy

July 21, 2005